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In re Application of TAUFENBACH
U.S. Application No.: 09/831,698
Int. Application No.: PCT/DE99/03570
Int. Filing Date: 09 November 1999
Priority Date: 13 November 1998
Attorney Docket No.: 6056-000040
For: CO₂ SLAB LASER

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 22 June 2001.

BACKGROUND

On 09 November 1999, applicant filed international application PCT/DE99/03570, which claimed priority of an earlier Germany application filed 13 November 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 25 May 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 05 June 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 14 May 2001 (13 May 2001 was a Sunday).

On 11 May 2001, applicant filed a Transmittal Letter concerning a filing under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US). The submission did not include the requisite basic national fee.

On 15 June 2001, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the present application is abandoned as to the United States for failure to pay the basic national fee.

On 22 June 2001, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional."

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 and a translation of the international application into English must be submitted.


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